

State of Arizona
House of Representatives
Forty-sixth Legislature
First Regular Session
2003

CHAPTER 133

HOUSE BILL 2153

AN ACT

AMENDING SECTION 20-1691, ARIZONA REVISED STATUTES; REPEALING SECTION 20-1691.06, ARIZONA REVISED STATUTES; RENUMBERING SECTIONS 20-1691.01, 20-1691.02, 20-1691.03, 20-1691.04, 20-1691.05, 20-1691.07 AND 20-1691.08, ARIZONA REVISED STATUTES, AS SECTIONS 20-1691.02, 20-1691.03, 20-1691.05, 20-1691.06, 20-1691.07, 20-1691.09 AND 20-1691.10, RESPECTIVELY; AMENDING TITLE 20, CHAPTER 6, ARTICLE 15, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-1691.01; AMENDING SECTIONS 20-1691.02 AND 20-1691.03, ARIZONA REVISED STATUTES, AS RENUMBERED BY THIS ACT; AMENDING TITLE 20, CHAPTER 6, ARTICLE 15, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-1691.04; AMENDING SECTIONS 20-1691.05, 20-1691.06 AND 20-1691.07, ARIZONA REVISED STATUTES, AS RENUMBERED BY THIS ACT; AMENDING TITLE 20, CHAPTER 6, ARTICLE 15, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-1691.08; AMENDING SECTION 20-1691.10, ARIZONA REVISED STATUTES, AS RENUMBERED BY THIS ACT; AMENDING TITLE 20, CHAPTER 6, ARTICLE 15, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-1691.11; RELATING TO LONG-TERM CARE INSURANCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-1691, Arizona Revised Statutes, is amended to
3 read:

4 20-1691. Definitions

5 In this article, unless the context otherwise requires:

6 ~~1. "Activities of daily living" means eating, toileting, transferring,~~
7 ~~bathing, dressing or continence.~~

8 ~~2.~~ 1. "Applicant" means:

9 (a) In the case of an individual long-term care insurance policy, the
10 person who seeks to contract for such benefits.

11 (b) In the case of a group long-term care insurance policy, the
12 proposed certificate holder.

13 ~~3.~~ 2. "Certificate" means a certificate issued under a group
14 long-term care insurance policy, which group policy has been delivered or
15 issued for delivery in this state.

16 ~~4.~~ 3. "Chronically ill individual" means any individual who has been
17 certified by a licensed health care practitioner as meeting the definition
18 of illness established by title III of the health insurance portability and
19 accountability act of 1996 (P.L. 104-191).

20 ~~5.~~ 4. "Director" means the director of the department of insurance.

21 ~~6.~~ 5. "Group long-term care insurance" means a long-term care
22 insurance policy either:

23 ~~(a) Delivered or issued for delivery in this state and issued to any~~
24 ~~of the following:~~

25 ~~(i)~~ (a) One or more employers or labor organizations, or to a trust
26 or the trustees of a fund established by one or more employers or labor
27 organizations for employees or former employees or members or former members
28 of the labor organization.

29 ~~(ii)~~ (b) A professional, trade or occupational association for its
30 members or former or retired members if the association is composed of
31 individuals who were all actively engaged in the same profession, trade or
32 occupation and the association has been maintained in good faith for purposes
33 other than obtaining insurance.

34 ~~(iii)~~ (c) An association or to a trust or to the trustees of a fund
35 established, created or maintained for the benefit of members of one or more
36 associations, SUBJECT TO COMPLIANCE WITH THE REQUIREMENTS OF SECTION
37 20-1691.04, SUBSECTION A.

38 ~~(iv)~~ (d) A group other than that described in item ~~(i), (ii) or (iii)~~
39 ~~which meets~~ SUBDIVISION (a), (b) OR (c) OF THIS PARAGRAPH IF A POLICY ISSUED
40 TO THE GROUP SATISFIES the criteria under section ~~20-1691.02~~ 20-1691.04,
41 subsection ~~D~~ C.

42 ~~(b) Affording coverage to a resident of this state under a group~~
43 ~~policy issued in another state to a group which meets the criteria under~~
44 ~~section 20-1691.02, subsection D.~~

1 6. "GROUP LONG-TERM CARE INSURANCE" MEANS A LONG-TERM CARE INSURANCE
2 POLICY THAT IS DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE TO A GROUP.

3 7. "Licensed health care practitioner" means any physician licensed
4 pursuant to title 32, chapter 13 or 17, any registered nurse or registered
5 nurse practitioner licensed pursuant to title 32, chapter 15 or any other
6 individual who meets the requirements prescribed by the UNITED STATES
7 secretary of the treasury.

8 8. "Long-term care insurance" means an individual or group insurance
9 policy or rider issued by insurers, fraternal benefit societies, nonprofit
10 health, hospital and medical service corporations, prepaid health plans,
11 health care services organizations or any similar organization and
12 advertised, marketed, offered or designed to provide coverage for each
13 covered person on an expense-incurred, indemnity, prepaid or other basis for
14 one or more necessary or medically necessary diagnostic, preventive,
15 therapeutic, rehabilitative, maintenance, personal or custodial care services
16 provided in a setting other than an acute care unit of a hospital. Long-term
17 care insurance includes group and individual annuities, and life insurance
18 policies or riders that provide or supplement long-term care insurance AND
19 QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS. LONG-TERM CARE INSURANCE ALSO
20 INCLUDES A POLICY OR RIDER THAT PROVIDES FOR PAYMENT OF BENEFITS BASED ON
21 COGNITIVE IMPAIRMENT OR LOSS OF FUNCTIONAL CAPACITY. Long-term care insurance
22 does not include any insurance policy that is offered primarily to provide
23 basic medicare supplement coverage, basic hospital expense coverage, basic
24 medical and surgical expense coverage, ~~hospital confinement indemnity~~
25 ~~coverage~~, major medical expense coverage, disability income or related asset
26 protection coverage, hospital confinement indemnity coverage, accident only
27 coverage, specified disease coverage, specified accident coverage or limited
28 benefit health coverage or riders to the insurance policy or a life insurance
29 policy that accelerates the death benefit for terminal illness, medical
30 conditions requiring extraordinary medical intervention or permanent
31 institutional confinement, that provides the option of a lump sum payment for
32 those benefits and in which the benefits or the eligibility for the benefits
33 is not conditioned on the receipt of long-term care.

34 9. "MAINTENANCE OR PERSONAL CARE SERVICES" MEANS ANY CARE THE PRIMARY
35 PURPOSE OF WHICH IS TO PROVIDE ASSISTANCE NEEDED WITH ANY DISABILITY THAT
36 RESULTS IN THE INDIVIDUAL BEING A CHRONICALLY ILL INDIVIDUAL, INCLUDING THE
37 PROTECTION FROM THREATS TO HEALTH AND SAFETY DUE TO SEVERE COGNITIVE
38 IMPAIRMENT.

39 9- 10. "Policy" means an individual or group policy, contract,
40 subscriber agreement, rider or endorsement delivered or issued for delivery
41 in this state by an insurer, fraternal benefit society, nonprofit health,
42 hospital or medical service corporation, prepaid health plan or health care
43 services organization or any similar organization.

44 10- 11. "Preexisting condition" means a condition for which medical
45 advice or treatment was recommended by or received from a health care

1 services provider within six months before the effective date of coverage of
2 an insured person.

3 ~~11.~~ 12. "Qualified long-term care insurance contract" means:

4 (a) Any insurance contract ~~within the meaning of title III of the~~
5 ~~health insurance portability and accountability act of 1996 (P.L. 104-191)~~
6 POLICY THAT MEETS THE REQUIREMENTS OF SECTION 7702B OF THE INTERNAL REVENUE
7 CODE OF 1986, AS AMENDED.

8 (b) THE PORTION OF A LIFE INSURANCE POLICY THAT PROVIDES LONG-TERM CARE
9 INSURANCE COVERAGE BY RIDER OR AS A PART OF THE POLICY AND THAT SATISFIES THE
10 REQUIREMENTS OF SECTION 7702B(b) AND (e) OF THE INTERNAL REVENUE CODE OF
11 1986, AS AMENDED.

12 ~~12.~~ 13. "Qualified long-term care services" means necessary
13 diagnostic, preventive, therapeutic, curing, treating, mitigating and
14 rehabilitative services and maintenance for personal care services to which
15 the insured is eligible under a qualified long-term care insurance contract
16 and that are provided pursuant to a plan of care prescribed by a licensed
17 health care practitioner.

18 ~~13.~~ 14. "Severe cognitive impairment" means an impairment determined
19 by a licensed health care practitioner as meeting the definition of an
20 impairment as established by title III of the health insurance portability
21 and accountability act of 1996 (P.L. 104-191).

22 Sec. 2. Repeal

23 Section 20-1691.06, Arizona Revised Statutes, is repealed.

24 Sec. 3. Renumber

25 Sections 20-1691.01, 20-1691.02, 20-1691.03, 20-1691.04, 20-1691.05,
26 20-1691.07 and 20-1691.08, Arizona Revised Statutes, are renumbered as
27 sections 20-1691.02, 20-1691.03, 20-1691.05, 20-1691.06, 20-1691.07,
28 20-1691.09 and 20-1691.10, respectively.

29 Sec. 4. Title 20, chapter 6, article 15, Arizona Revised Statutes, is
30 amended by adding section 20-1691.01, to read:

31 20-1691.01. Applicability and scope

32 A. EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, THIS ARTICLE APPLIES
33 TO ALL LONG-TERM CARE INSURANCE POLICIES DELIVERED OR ISSUED FOR DELIVERY IN
34 THIS STATE. THIS ARTICLE DOES NOT SUPERSEDE THE OBLIGATIONS OF ANY PERSON
35 SUBJECT TO THIS ARTICLE TO COMPLY WITH OTHER APPLICABLE INSURANCE LAWS IN
36 THIS TITLE THAT DO NOT CONFLICT WITH THIS ARTICLE, EXCEPT THAT LAWS
37 APPLICABLE TO MEDICARE SUPPLEMENT INSURANCE POLICIES DO NOT APPLY TO
38 LONG-TERM CARE INSURANCE POLICIES.

39 B. A LONG-TERM CARE INSURANCE POLICY AND ANY PRODUCT THAT IS
40 ADVERTISED, MARKETING OR OFFERED AS LONG-TERM CARE INSURANCE MUST COMPLY WITH
41 THE APPLICABLE REQUIREMENTS OF THIS ARTICLE.

1 Sec. 5. Section 20-1691.02, Arizona Revised Statutes, as renumbered
2 by this act, is amended to read:

3 20-1691.02. Adoption of rules

4 ~~A.~~ The director may adopt reasonable rules for ~~the following TO~~
5 IMPLEMENT THIS ARTICLE, INCLUDING RULES THAT:

6 1. ~~To~~ Establish specific standards for policy provisions of long-term
7 care insurance policies, INCLUDING TERMS OF RENEWABILITY, INITIAL AND
8 SUBSEQUENT CONDITIONS OF ELIGIBILITY, NONDUPLICATION OF COVERAGE, COVERAGE
9 OF DEPENDENTS, PREEXISTING CONDITIONS, TERMINATION OF INSURANCE,
10 CONTINUATION, CONVERSION, PROBATIONARY PERIODS, LIMITATIONS, EXCEPTIONS,
11 REDUCTIONS, ELIMINATION PERIODS, REPLACEMENT, RECURRENT CONDITIONS AND
12 DEFINITIONS.

13 2. ~~To~~ Establish loss ratio standards for long-term care insurance
14 policies provided that a specific reference to long-term care insurance
15 policies is contained in the rule.

16 3. PROMOTE PREMIUM ADEQUACY AND PROTECT POLICYHOLDERS IN THE EVENT OF
17 SUBSTANTIAL RATE INCREASES.

18 ~~3.~~ 4. ~~To~~ Establish standards for THE MANNER, CONTENT AND REQUIRED
19 DISCLOSURE FOR THE SALE OF LONG-TERM CARE INSURANCE POLICIES, INCLUDING
20 disclosure of policy provisions, conditions and limitations.

21 5. PRESCRIBE A STANDARD FORMAT, INCLUDING STYLE, ARRANGEMENT AND
22 OVERALL APPEARANCE, AND THE CONTENT OF AN OUTLINE OF COVERAGE.

23 ~~4.~~ 6. ~~To~~ Establish minimum standards for marketing practices,
24 insurance producer testing and reporting practices relating to long-term care
25 insurance and penalties for violating the standards.

26 7. SPECIFY THE TYPE OR TYPES OF NONFORFEITURE BENEFITS TO BE OFFERED
27 AS PART OF A LONG-TERM CARE INSURANCE POLICY AND CERTIFICATE, THE STANDARDS
28 FOR NONFORFEITURE BENEFITS AND THE REQUIREMENTS FOR CONTINGENT BENEFIT ON
29 LAPSE, INCLUDING A DETERMINATION OF THE SPECIFIED PERIOD OF TIME DURING WHICH
30 A CONTINGENT BENEFIT ON LAPSE WILL BE AVAILABLE AND THE SUBSTANTIAL PREMIUM
31 RATE INCREASE THAT TRIGGERS A CONTINGENT BENEFIT ON LAPSE AS DESCRIBED IN
32 SECTION 20-1691.11.

33 ~~B. Rules adopted pursuant to subsection A, paragraph 1 shall be~~
34 ~~limited to initial and subsequent conditions of eligibility, duplication of~~
35 ~~coverage provisions, coverage of dependents, preexisting conditions,~~
36 ~~termination of insurance, probationary periods, limitations, exceptions,~~
37 ~~reductions, elimination periods, requirements for replacement, recurrent~~
38 ~~conditions and definitions of terms.~~

39 Sec. 6. Section 20-1691.03, Arizona Revised Statutes, as renumbered
40 by this act, is amended to read:

41 20-1691.03. Limitations of long-term care insurance policies

42 A. No insurer may cancel, fail to renew or otherwise terminate a
43 long-term care insurance policy solely on the grounds of the age or the
44 deterioration of the mental or physical health of the insured individual or
45 certificate holder.

1 B. No long-term care insurance policy may contain a provision
2 establishing any new waiting period if existing coverage is converted to or
3 replaced by a new or other form within the same company, except with respect
4 to an increase in benefits voluntarily selected by the insured individual or
5 group policyholder.

6 C. A long-term care insurance policy must SHALL provide coverage for
7 at least twenty-four consecutive months for each covered person.

8 ~~D. No group long-term care insurance coverage may be offered to a~~
9 ~~resident of this state under a group policy issued in another state to a~~
10 ~~group described in section 20-1691, paragraph 6, subdivision (a), item (iv),~~
11 ~~unless this state or another state having statutory and regulatory long-term~~
12 ~~care insurance requirements substantially similar to those adopted in this~~
13 ~~state has made a determination that:~~

14 ~~1. The issuance of the group policy is not contrary to the best~~
15 ~~interests of the public.~~

16 ~~2. The issuance of the group policy would result in economies of~~
17 ~~acquisition or administration.~~

18 ~~3. The benefits are reasonable in relation to the premiums charged.~~

19 ~~E. Before advertising, marketing or offering a policy within this~~
20 ~~state issued to the persons described in section 20-1691, paragraph 6,~~
21 ~~subdivision (a), item (iii), the association or associations, or the insurer~~
22 ~~of the association or associations, shall file evidence with the director~~
23 ~~that the association or associations meet all of the following requirements:~~

24 ~~1. Consist of at least one hundred persons.~~

25 ~~2. Have been organized and maintained in good faith for purposes other~~
26 ~~than obtaining insurance.~~

27 ~~3. Have been in active existence for at least one year.~~

28 ~~4. Have a constitution and bylaws which provide all of the following:~~

29 ~~(a) The association or associations hold regular meetings at least~~
30 ~~annually to further the purposes of the members.~~

31 ~~(b) Except for credit unions, the association or associations collect~~
32 ~~dues or solicit contributions from members.~~

33 ~~(c) The members have voting privileges and representation on the~~
34 ~~governing board and committees.~~

35 ~~F. Thirty days after filing the evidence required by subsection D of~~
36 ~~this section the association or associations are deemed to satisfy the~~
37 ~~organizational requirements, unless the director makes a finding that the~~
38 ~~association or associations do not satisfy those organizational requirements.~~

39 ~~G. The director may prohibit further offering to a resident of this~~
40 ~~state of a group policy under section 20-1691, paragraph 6, subdivision (a),~~
41 ~~item (iii) or (iv) which was initially authorized for issuance, if the~~
42 ~~director finds that the insurer does not currently meet the requirements of~~
43 ~~this article.~~

44 ~~H. D. No preexisting condition limitation period in a long-term care~~
45 ~~insurance policy or certificate may exceed the following:~~

1 1. If not approved under paragraph 3 of ~~this subsection~~, six months
2 after the effective date of coverage of an insured who is sixty-five years
3 of age or older on the effective date of coverage.

4 2. Twenty-four months after the effective date of coverage of an
5 insured who is under sixty-five years of age on the effective date of
6 coverage.

7 3. A period of time set by the director after the effective date of
8 coverage of an insured who is a member of a designated group for which the
9 director has found that a different limitation period is justified because
10 the group is specially limited by age, group categories or other specific
11 policy provisions and that the different limitation period will be a benefit
12 to the certificate holders.

13 ~~I.~~ E. No long-term care insurance policy or certificate may use a
14 definition of preexisting condition which is more restrictive than the
15 definition in ~~section 20-1691, paragraph 10~~ PRESCRIBED IN THIS ARTICLE.

16 F. A LONG-TERM CARE INSURANCE POLICY SHALL NOT EXCLUDE OR USE WAIVERS
17 OR RIDERS OF ANY KIND TO EXCLUDE, LIMIT OR REDUCE COVERAGE OR BENEFITS FOR
18 SPECIFICALLY NAMED OR DESCRIBED PREEXISTING DISEASES OR PHYSICAL CONDITIONS
19 BEYOND THE PERIODS ALLOWED UNDER SUBSECTION D.

20 ~~J.~~ G. The definition of preexisting condition does not prohibit an
21 insurer from using an application form designed to elicit the complete health
22 history of an applicant and, on the basis of the answers on that application,
23 from underwriting in accordance with that insurer's established underwriting
24 standards.

25 ~~K.~~ H. No long-term care insurance policy or certificate issued on or
26 after July 1, 1990, may provide COVERAGE FOR SKILLED NURSING CARE ONLY OR
27 PROVIDE significantly more coverage for skilled care in a facility than
28 coverage for lower levels of care, or coverage that conditions eligibility
29 for benefits for levels of care on the receipt of higher levels of care. In
30 evaluating the requirements of this subsection, the director shall consider
31 the amount of coverage provided based on aggregate days of care covered for
32 lower levels of care when compared to days of care covered for skilled care.

33 Sec. 7. Title 20, chapter 6, article 15, Arizona Revised Statutes, is
34 amended by adding section 20-1691.04, to read:

35 20-1691.04. Requirements for certain group coverage

36 A. BEFORE ADVERTISING, MARKETING OR OFFERING A POLICY WITHIN THIS
37 STATE ISSUED TO A GROUP DEFINED IN SECTION 20-1691, PARAGRAPH 5, SUBDIVISION
38 (c), THE ASSOCIATION OR THE INSURER OF THE ASSOCIATION SHALL FILE EVIDENCE
39 WITH THE DIRECTOR THAT THE ASSOCIATION MEETS ALL OF THE FOLLOWING
40 REQUIREMENTS:

41 1. CONSISTS OF AT LEAST ONE HUNDRED PERSONS.

42 2. HAS BEEN ORGANIZED AND MAINTAINED IN GOOD FAITH FOR PURPOSES OTHER
43 THAN OBTAINING INSURANCE.

44 3. HAS BEEN IN ACTIVE EXISTENCE FOR AT LEAST ONE YEAR.

45 4. HAS A CONSTITUTION AND BYLAWS THAT PRESCRIBE ALL OF THE FOLLOWING:

1 (a) THAT THE ASSOCIATION HOLDS REGULAR MEETINGS AT LEAST ANNUALLY TO
2 FURTHER THE PURPOSES OF THE MEMBERS.

3 (b) EXCEPT FOR CREDIT UNIONS, THAT THE ASSOCIATION COLLECTS DUES OR
4 SOLICITS CONTRIBUTIONS FROM MEMBERS.

5 (c) THAT THE MEMBERS HAVE VOTING PRIVILEGES AND REPRESENTATION ON THE
6 GOVERNING BOARD AND COMMITTEES.

7 B. THIRTY DAYS AFTER FILING THE EVIDENCE REQUIRED BY SUBSECTION A OF
8 THIS SECTION, AN ASSOCIATION IS DEEMED TO SATISFY THE ORGANIZATIONAL
9 REQUIREMENTS OF SUBSECTION A OF THIS SECTION UNLESS THE DIRECTOR NOTIFIES THE
10 ASSOCIATION OR ITS INSURER IN WRITING THAT THE ASSOCIATION DOES NOT SATISFY
11 THOSE ORGANIZATIONAL REQUIREMENTS.

12 C. AN INSURER MAY OFFER A GROUP LONG-TERM CARE INSURANCE POLICY TO A
13 GROUP DEFINED IN SECTION 20-1691, PARAGRAPH 5, SUBDIVISION (d) IF THE
14 DIRECTOR FINDS ALL OF THE FOLLOWING:

15 1. ISSUANCE OF THE GROUP POLICY IS NOT CONTRARY TO THE BEST INTEREST
16 OF THE PUBLIC.

17 2. ISSUANCE OF THE GROUP POLICY WOULD RESULT IN ECONOMIES OF
18 ACQUISITION OR ADMINISTRATION.

19 3. THE BENEFITS OF THE POLICY ARE REASONABLE IN RELATION TO THE
20 PREMIUM CHARGED.

21 D. A PERSON SHALL NOT OFFER LONG-TERM CARE INSURANCE COVERAGE FOR A
22 RESIDENT OF THIS STATE UNDER A GROUP POLICY ISSUED IN ANOTHER STATE TO A
23 GROUP DEFINED IN SECTION 20-1691, PARAGRAPH 5, SUBDIVISION (d) UNLESS THE
24 STATE OF ISSUANCE HAS STATUTORY AND REGULATORY LONG-TERM CARE INSURANCE
25 REQUIREMENTS SUBSTANTIALLY SIMILAR TO THE REQUIREMENTS IN THIS STATE AND
26 EITHER THIS STATE OR THE STATE OF ISSUANCE HAS MADE A DETERMINATION THAT THE
27 REQUIREMENTS HAVE BEEN MET.

28 E. THE DIRECTOR MAY PROHIBIT FURTHER OFFERING TO A RESIDENT OF THIS
29 STATE A POLICY THAT WAS ISSUED TO A GROUP AS DEFINED IN SECTION 20-1691,
30 PARAGRAPH 5, SUBDIVISION (c) OR (d) AND THAT WAS INITIALLY AUTHORIZED FOR
31 ISSUANCE, IF THE DIRECTOR FINDS THAT THE INSURER DOES NOT CURRENTLY MEET THE
32 REQUIREMENTS OF THIS ARTICLE.

33 Sec. 8. Section 20-1691.05, Arizona Revised Statutes, as renumbered
34 by this act, is amended to read:

35 20-1691.05. Prior institutionalization

36 ~~A. A long-term care insurance policy which provides benefits only~~
37 ~~after institutionalization shall not condition these benefits on admission~~
38 ~~to a facility within a period of fewer than thirty days after discharge from~~
39 ~~the institution.~~

40 ~~B. A. No A long-term care insurance policy which conditions DELIVERED~~
41 ~~OR ISSUED FOR DELIVERY IN THIS STATE ON OR AFTER JULY 1, 1990 SHALL NOT~~
42 ~~CONDITION availability of benefits on prior hospitalization may be delivered~~
43 ~~or issued for delivery in this state on or after July 1, 1990.~~

1 B. A LONG-TERM CARE INSURANCE POLICY DELIVERED OR ISSUED FOR DELIVERY
2 IN THIS STATE ON OR AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS
3 SECTION SHALL NOT:

4 1. CONDITION ELIGIBILITY FOR BENEFITS PROVIDED IN AN INSTITUTIONAL
5 CARE SETTING ON THE RECEIPT OF A HIGHER LEVEL OF INSTITUTIONAL CARE.

6 2. CONDITION ELIGIBILITY FOR ANY BENEFITS, OTHER THAN WAIVER OF
7 PREMIUM, POSTCONFINEMENT, POSTACUTE CARE OR RECUPERATIVE BENEFITS, ON A PRIOR
8 INSTITUTIONALIZATION REQUIREMENT.

9 C. A LONG-TERM CARE INSURANCE POLICY CONTAINING POSTCONFINEMENT,
10 POSTACUTE CARE OR RECUPERATIVE BENEFITS SHALL CLEARLY LABEL, IN A SEPARATE
11 PARAGRAPH OF THE POLICY THAT IS ENTITLED "LIMITATIONS ON BENEFITS", ANY
12 LIMITATIONS OR CONDITIONS, INCLUDING ANY REQUIRED NUMBER OF DAYS OF
13 CONFINEMENT.

14 D. A LONG-TERM CARE INSURANCE POLICY OR RIDER THAT CONDITIONS
15 ELIGIBILITY OF NONINSTITUTIONAL BENEFITS ON THE PRIOR RECEIPT OF
16 INSTITUTIONAL CARE SHALL NOT REQUIRE A PRIOR INSTITUTIONAL STAY OF MORE THAN
17 THIRTY DAYS.

18 E. A LONG-TERM CARE POLICY THAT PROVIDES BENEFITS ONLY FOLLOWING
19 INSTITUTIONALIZATION SHALL NOT CONDITION THE BENEFITS ON ADMISSION TO A
20 FACILITY FOR THE SAME OR RELATED CONDITIONS WITHIN A PERIOD OF LESS THAN
21 THIRTY DAYS AFTER DISCHARGE FROM THE INSTITUTION.

22 Sec. 9. Section 20-1691.06, Arizona Revised Statutes, as renumbered
23 by this act, is amended to read:

24 20-1691.06. Outline of coverage; certificate

25 A. An outline of coverage shall be delivered to an applicant for an
26 ~~individual~~ A long-term care insurance policy at the time of application for
27 ~~an individual policy~~ INITIAL SOLICITATION THROUGH MEANS THAT PROMINENTLY
28 DIRECT THE RECIPIENT'S ATTENTION TO THE DOCUMENT AND ITS PURPOSE. In the
29 case of direct response solicitations, the outline of coverage shall be
30 presented in conjunction with an application or enrollment form. In the case
31 of insurance producer solicitations, the insurance producer shall deliver the
32 outline of coverage before the presentation of an application or enrollment
33 form. The outline of coverage shall include all of the following:

34 1. A description of the principal benefits and coverage provided in
35 the policy.

36 2. A statement of the principal exclusions, reductions and limitations
37 contained in the policy.

38 3. A statement of the renewal provisions, including any reservation
39 in the policy of a right to change premiums, AND ANY CONTINUATION OR
40 CONVERSION PROVISIONS OF GROUP COVERAGE.

41 4. A statement that the outline of coverage is a summary of the policy
42 issued or applied for, and that the policy should be consulted to determine
43 governing contractual provisions.

44 5. A DESCRIPTION OF THE TERMS UNDER WHICH THE POLICY OR CERTIFICATE
45 MAY BE RETURNED AND THE PREMIUM REFUNDED.

1 6. A DESCRIPTION OF THE RELATIONSHIP OF COST OF CARE AND BENEFITS.

2 ~~5. 7. A statement and description of whether the policy constitutes~~
3 ~~a qualified long-term care insurance contract within the meaning of title III~~
4 ~~of the health insurance portability and accountability act of 1996 (P.L.~~
5 ~~104-191).~~

6 B. FOR A LONG-TERM CARE POLICY THAT IS ISSUED TO A GROUP AS DEFINED
7 IN SECTION 20-1691, PARAGRAPH 5, SUBDIVISION (a), AN OUTLINE OF COVERAGE IS
8 NOT REQUIRED TO BE DELIVERED IF THE INFORMATION LISTED IN SUBSECTION A OF
9 THIS SECTION IS CONTAINED IN OTHER MATERIALS RELATED TO ENROLLMENT. ON
10 REQUEST, AN INSURER SHALL MAKE THE OTHER MATERIALS AVAILABLE TO THE DIRECTOR.

11 ~~B. C. A policy summary for~~ ON DELIVERY OF an individual life
12 insurance policy that provides long-term care benefits within the policy or
13 by rider, A POLICY SUMMARY shall be delivered to the policyholder ~~when the~~
14 ~~policy is delivered.~~ In the case of direct response solicitations, the
15 insurer shall deliver ~~a~~ THE policy summary on the applicant's request. If
16 an applicant does not request the delivery of a policy summary, the insurer
17 shall deliver the policy summary no later than at the time the policy is
18 delivered. A policy summary shall include:

19 1. An explanation of how the long-term care benefits interact with
20 other components of the policy, including deductions from death benefits.

21 2. An explanation of the amount of benefits, the length of benefits
22 and the guaranteed lifetime benefits, if any, for each covered person.

23 3. Any exclusions, reductions or limitations on benefits of long-term
24 care.

25 4. A STATEMENT THAT ANY LONG-TERM CARE INFLATION PROTECTION OPTION
26 REQUIRED BY STATE LAW IS NOT AVAILABLE UNDER THE POLICY.

27 ~~4.~~ 5. If applicable to the type of policy that is issued:

28 (a) A disclosure of the effects of exercising other rights under the
29 policy.

30 (b) A disclosure of guarantees that are related to long-term care
31 costs of insurance charges.

32 (c) Current and projected maximum lifetime benefits.

33 ~~5.~~ 6. An explanation of the monthly reporting requirements for life
34 insurance policies with an accelerated death benefits option.

35 D. THE PROVISIONS OF THE POLICY SUMMARY REQUIRED UNDER SUBSECTION C
36 OF THIS SECTION MAY BE INCORPORATED INTO ANY REQUIRED LIFE INSURANCE
37 ILLUSTRATION OR POLICY SUMMARY.

38 ~~C.~~ E. The insurer shall provide a monthly report to the insured any
39 time a long-term care benefit that is funded through a life insurance vehicle
40 by the acceleration of the death benefit is in benefit payment status and the
41 report shall include:

42 1. Any long-term care benefits paid out during the month.

43 2. An explanation of any changes in the policy, including death
44 benefits or cash values, due to long-term care benefits paid out.

45 3. The amount of long-term care benefits existing or remaining.

1 ~~D.~~ F. A certificate issued pursuant to a group long-term care
2 insurance policy that is delivered or issued for delivery in this state shall
3 include all of the following:

4 1. A description of the principal benefits and coverage provided in
5 the policy.

6 2. A statement of the principal exclusions, reductions and limitations
7 contained in the policy.

8 3. A statement that the group master policy should be consulted to
9 determine governing contractual provisions.

10 G. IF AN APPLICATION FOR A LONG-TERM CARE INSURANCE CONTRACT OR
11 CERTIFICATE IS APPROVED, THE ISSUER SHALL DELIVER THE CONTRACT OR CERTIFICATE
12 OF INSURANCE TO THE APPLICANT WITHIN THIRTY DAYS OF APPROVAL.

13 H. AN INSURER SHALL NOTIFY A CLAIMANT THAT A CLAIM UNDER A LONG-TERM
14 CARE INSURANCE POLICY IS ACCEPTED OR DENIED WITHIN FIFTEEN WORKING DAYS OF
15 THE INSURER'S RECEIPT OF A CLAIM IF THE INSURER HAS RECEIVED THE
16 DOCUMENTATION IT REASONABLY REQUIRES TO DETERMINE LIABILITY. IF THE INSURER
17 REQUIRES LONGER THAN FIFTEEN WORKING DAYS, THE INSURER, WITHIN THE FIFTEEN
18 DAYS, SHALL NOTIFY THE CLAIMANT OF THE NEED FOR ADDITIONAL TIME AND SHALL
19 EXPLAIN WHY ADDITIONAL TIME IS REQUIRED. IN NO CASE SHALL THE DETERMINATION
20 EXCEED SIXTY DAYS.

21 1. IF AN INSURER DENIES A CLAIM UNDER A LONG-TERM CARE INSURANCE
22 POLICY, THE INSURER SHALL:

23 1. PROVIDE THE POLICYHOLDER, CERTIFICATE HOLDER OR DESIGNATED
24 REPRESENTATIVE OF THE POLICYHOLDER OR CERTIFICATE HOLDER WITH A WRITTEN
25 EXPLANATION OF THE REASONS FOR THE DENIAL, INCLUDING A REFERENCE TO ANY
26 SPECIFIC POLICY PROVISION, CONDITION OR EXCLUSION SUPPORTING THE DENIAL.

27 2. MAKE AVAILABLE ALL INFORMATION DIRECTLY RELATED TO THE DENIAL TO
28 THE POLICYHOLDER, CERTIFICATE HOLDER OR DESIGNATED REPRESENTATIVE OF THE
29 POLICYHOLDER OR CERTIFICATE HOLDER.

30 Sec. 10. Section 20-1691.07, Arizona Revised Statutes, as renumbered
31 by this act, is amended to read:

32 20-1691.07. Right to return

33 A. A person insured under a long-term care insurance policy or
34 certificate shall have the right to return the policy or certificate within
35 thirty days of its delivery and to have the premium refunded if, after
36 examination, the insured person is not satisfied for any reason. Long-term
37 care insurance policies or certificates shall have a notice prominently
38 printed on OR ATTACHED TO the first page ~~or attached thereto~~ stating in
39 substance that the insured person shall have the right to return the policy
40 or certificate within thirty days of its delivery and to have the premium
41 refunded if after examination the insured person is not satisfied for any
42 reason.

43 B. The insurer shall return any premium refund made pursuant to this
44 section to the insured within thirty days of the insurer's receipt of the
45 returned long-term care insurance policy or certificate.

1 Sec. 11. Title 20, chapter 6, article 15, Arizona Revised Statutes,
2 is amended by adding section 20-1691.08, to read:

3 20-1691.08. Rate and form review; disapproval

4 A. A PERSON SHALL NOT DELIVER OR ISSUE FOR DELIVERY IN THIS STATE ANY
5 LONG-TERM CARE INSURANCE POLICY OR RATE UNLESS THE PERSON HAS FIRST FILED THE
6 FORM OR RATE WITH THE DIRECTOR AND THE DIRECTOR HAS APPROVED THE FORM OR
7 RATE. UNLESS THE DIRECTOR ISSUES AN ORDER AFFIRMATIVELY APPROVING OR
8 DISAPPROVING THE FORM OR RATE WITHIN THIRTY DAYS AFTER FILING, THE FORM OR
9 RATE IS DEEMED APPROVED. ON WRITTEN NOTICE GIVEN TO THE INSURER WITHIN THE
10 THIRTY DAY PERIOD, THE DIRECTOR MAY EXTEND THE THIRTY DAY REVIEW PERIOD FOR
11 UP TO FIFTEEN ADDITIONAL DAYS.

12 B. THE DIRECTOR SHALL DISAPPROVE A RATE OR FORM IF EITHER:

13 1. THE RATE IS NOT IN COMPLIANCE WITH THIS ARTICLE OR ANY RULES
14 ADOPTED PURSUANT TO THIS ARTICLE.

15 2. THE FORM CONTAINS PROVISIONS THAT ARE AMBIGUOUS, MISLEADING OR
16 DECEPTIVE, THAT ENCOURAGE MISREPRESENTATION OF THE COVERAGE OR THAT ARE
17 CONTRARY TO THIS TITLE OR OF ANY RULE ADOPTED PURSUANT TO THIS TITLE.

18 C. IF THE DIRECTOR DISAPPROVES A RATE OR FORM, THE DIRECTOR SHALL SEND
19 THE INSURER A WRITTEN NOTICE SPECIFYING THE REASON FOR DISAPPROVAL. THE
20 INSURER MAY REQUEST A HEARING PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10 TO
21 CONTEST THE DISAPPROVAL. IT IS UNLAWFUL FOR THE INSURER TO ISSUE OR USE A
22 RATE OR FORM THAT HAS BEEN DISAPPROVED.

23 D. AT ANY TIME AFTER NOTICE AND FOR CAUSE SHOWN, THE DIRECTOR MAY
24 ISSUE AN ORDER WITHDRAWING APPROVAL OF ANY FORM OR RATE FOR ANY REASON LISTED
25 IN SUBSECTION B. THE INSURER MAY REQUEST A HEARING PURSUANT TO TITLE 41,
26 CHAPTER 6, ARTICLE 10 TO CONTEST THE DIRECTOR'S ORDER.

27 E. AN INSURER SHALL NOT ISSUE OR USE A RATE OR FORM AFTER THE
28 EFFECTIVE DATE OF AN ORDER WITHDRAWING APPROVAL.

29 F. THE DIRECTOR, BY ORDER, MAY EXEMPT FROM THE REQUIREMENTS OF THIS
30 SECTION FOR AS LONG AS THE DIRECTOR DEEMS PROPER ANY INSURANCE RATE OR FORM
31 SPECIFIED IN THE ORDER, TO WHICH, IN THE DIRECTOR'S OPINION, THIS SECTION MAY
32 NOT PRACTICABLY BE APPLIED OR THE FILING AND APPROVAL OF WHICH ARE, IN THE
33 DIRECTOR'S OPINION, NOT DESIRABLE OR NECESSARY FOR THE PROTECTION OF THE
34 PUBLIC.

35 Sec. 12. Section 20-1691.10, Arizona Revised Statutes, as renumbered
36 by this act, is amended to read:

37 20-1691.10. Contestable periods

38 A. If a policy or certificate has been in force for less than six
39 months, an insurer may rescind a long-term care insurance policy or
40 certificate or deny an otherwise valid long-term care insurance claim only
41 on a showing of misrepresentation that is material to the acceptance for
42 coverage.

43 B. If a policy or certificate has been in force for at least six
44 months but less than two years, an insurer may rescind a long-term care
45 insurance policy or certificate or deny an otherwise valid long-term care

1 insurance claim only on a showing of misrepresentation that is both material
2 to the acceptance for coverage and that pertains to the condition for which
3 benefits are sought.

4 C. After a policy or certificate has been in force for two years it
5 is not contestable solely for misrepresentation, but the insurer may contest
6 the policy or certificate on a showing that the insured knowingly and
7 intentionally misrepresented relevant facts relating to the insured's health.

8 D. An insurance producer or third party administrator shall not issue
9 a long-term insurance policy or certificate pursuant to the underwriting
10 authority granted to the insurance producer or third party administrator by
11 an insurer that is based on medical or health status.

12 E. If an insurer paid benefits under the long-term care insurance
13 policy or certificate, the insurer shall not recover the benefit payments if
14 the insurer rescinds the policy or certificate.

15 F. IF AN INSURED DIES, THIS SECTION DOES NOT APPLY TO THE REMAINING
16 DEATH BENEFIT OF A LIFE INSURANCE POLICY THAT ACCELERATES BENEFITS FOR
17 LONG-TERM CARE. SECTION 20-1204 APPLIES TO THE REMAINING DEATH BENEFITS.

18 Sec. 13. Title 20, chapter 6, article 15, Arizona Revised Statutes,
19 is amended by adding section 20-1691.11, to read:

20 20-1691.11. Nonforfeiture benefits

21 A. EXCEPT AS PROVIDED IN SUBSECTION B OF THIS SECTION, A PERSON SHALL
22 NOT DELIVER OR ISSUE FOR DELIVERY IN THIS STATE A LONG-TERM CARE INSURANCE
23 POLICY UNLESS THE POLICYHOLDER OR CERTIFICATE HOLDER HAS BEEN OFFERED THE
24 OPTION OF PURCHASING A POLICY OR CERTIFICATE WITH A NONFORFEITURE
25 BENEFIT. THE OFFER OF THE NONFORFEITURE BENEFIT MAY BE IN THE FORM OF A
26 RIDER THAT IS ATTACHED TO THE POLICY. IF THE POLICYHOLDER OR CERTIFICATE
27 HOLDER DECLINES THE BENEFIT, THE INSURER SHALL PROVIDE A CONTINGENT BENEFIT
28 ON LAPSE THAT SHALL BE AVAILABLE FOR A SPECIFIED PERIOD OF TIME FOLLOWING A
29 SUBSTANTIAL INCREASE IN PREMIUM RATES.

30 B. IF A GROUP LONG-TERM CARE INSURANCE POLICY IS ISSUED, A PERSON
31 SHALL MAKE THE OFFER OF THE NONFORFEITURE BENEFIT TO THE GROUP POLICYHOLDER,
32 EXCEPT THAT IF THE POLICY IS ISSUED TO A GROUP AS DEFINED IN SECTION 20-1691,
33 PARAGRAPH 5, SUBDIVISION (d), OTHER THAN TO A CONTINUING CARE RETIREMENT
34 COMMUNITY OR OTHER SIMILAR ENTITY, A PERSON SHALL MAKE THE OFFERING TO EACH
35 PROPOSED CERTIFICATE HOLDER.

APPROVED BY THE GOVERNOR MAY 1, 2003.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 2, 2003.

Passed the House March 3, 2003

Passed the Senate April 23, 2003

by the following vote: 59 Ayes,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

0 Nays, 1 Not Voting

Jake Flake
Speaker of the House

Ken Blumenthal
President of the Senate

Norman L. Moore
Chief Clerk of the House

Charmian Ballinger
Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR**

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

H.B. 2153

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 28, 2003,

by the following vote: 59 Ayes,

0 Nays, 1 Not Voting

Jake Flake
Speaker of the House
Norman L. Moore
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

28 day of April, 2003,

at 2:30 o'clock P M.

Sandra Ramirez
Secretary to the Governor

Approved this 1 day of

May, 2003,

at 5⁰⁰ o'clock P. M.

Jt. Nagel
Governor of Arizona

H.B. 2153

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 2 day of May, 2003,

at 3:32 o'clock P. M.

Janet K. Brewer
Secretary of State